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## Memorandum

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**To:** Orangetown Comprehensive Plan Committee  
**From:** AKRF, Inc.  
**Date:** April 25, 2022  
**Re:** Draft Land Use and Zoning Recommendations

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This memorandum summarizes the draft land use and zoning recommendations that would be incorporated into Chapter 2. We look forward to discussing these draft recommendations with the CPC and the public to further refine them.

### DRAFT IMPLEMENTATION STRATEGIES

Analysis of the existing zoning code and land use regulations revealed several issues relating to consistency, readability, and ease of enforcement. These issues were echoed by the Town's staff, land use board members, and the public during the public engagement process. This memorandum identifies several areas where the zoning code and land use regulations can be updated.

- The existing zoning code is cumbersome in the way it is setup, making it confusing to interpret and difficult to implement. Suggested improvements:
  - Eliminate and consolidate some of the zoning districts. Several districts have substantially similar allowable uses and dimensional (bulk) regulations. Consider consolidating the following districts:
    - CS and CC. The main difference between these commercial zones is that many of the allowable uses in CC zones are only permitted in CS zones conditionally or with a special permit.<sup>1</sup> As to bulk regulations, the districts have similar requirements for minimum lot size; however, CS zones allow for higher density.<sup>2</sup> Consider consolidating these districts into a single district, using the higher density

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<sup>1</sup>For example, the following uses are permitted by right in CC zones but require a special permit in CS zones: pet shops, upholsters, undertakers, printing shops, trade schools, and indoor theaters.

<sup>2</sup> In CC zones, the maximum floor area ratio (FAR) is 0.30; in CS zones, the FAR is 0.50 or 1.00 depending on the use.

standards of CS zones to support economic growth, encourage vertical development, and reduce sprawl.

- R-22 and R-15. The only notable difference between these medium density residential districts is the minimum lot size.<sup>3</sup> Very few areas within the Town are zoned R-22. Further, in several of the R-22 districts, many of lots are smaller than the required minimum of 22,500 square feet. These lots are non-conforming by virtue of their size, and likely, their setbacks. Consider consolidating these districts into a single medium-density residential district, using the lower minimum lot size of R-15 (15,000 sf) to grant homeowners greater flexibility in residential design and reduce non-conforming lots and variance requests.
- R-40. There are four isolated R-40 zoning districts nestled within higher-density residential districts. These isolated R-40 zones, which consist of three or fewer parcels, could be rezoned to conform with the immediately adjacent zoning district to increase consistency in the zoning regulations.



- Restructure the use and bulk tables to improve readability and understanding of the specific district regulations. Also, consider adding new uses to existing zoning districts.
- Consider deleting the deed-like descriptions of the zoning district boundaries within the text of the regulations; the boundaries are already established on the zoning map, and having them also detailed in the text increases the complexity and chances for inconsistencies in future amendments
- Update the zoning districts, as well as allowable land uses and definitions, to recognize uses not previously addressed and assign appropriate performance standards where applicable.
  - *New zoning district: Mixed Use*  
Mixed Use zoning districts are established and intended to foster a mutually supportive mix of compatible residential and nonresidential uses. By integrating multiple compatible uses, mixed-used development reduces sprawl, auto-dependence, and infrastructure costs (including, fire and police department, sanitation and garbage collection, ambulances, and construction and maintenance of utilities and roadways), while supporting healthy, environmentally sustainable, pedestrian-oriented communities. The district emphasizes the streetscape experience through techniques such as discouraging (or prohibiting) parking areas in the front of buildings, and it is subject to flexible standards that encourage

<sup>3</sup> Minimum lot sizes: R-15: 15,000sf. R-22: 22,500 sf.

compact development at an appropriate scale and balance of uses to ensure that development is compatible with surrounding uses.

○ *New land uses and definitions*

▪ *Residential*

Update regulations to support a diversity of housing options to ensure members of the community have access to quality housing. Expanding housing types to include accessory apartments, attached single-family homes, and garden townhomes can facilitate contextual housing development. In addition, a regulatory approach to allow more housing as-of-right would reduce the time and cost associated with new home construction.

• *Accessory dwelling unit (ADU)*

Additional living unit on a single-family lot that is independent of the primary dwelling unit (may be attached or detached from the primary unit); also known as in-law suites, backyard cottages, or granny flats. ADUs have modest visual impacts, can generate rental income for the property owners, increase housing options, and allow multi-generational families to continue living together. Further, unregulated ADUs pose safety risks.

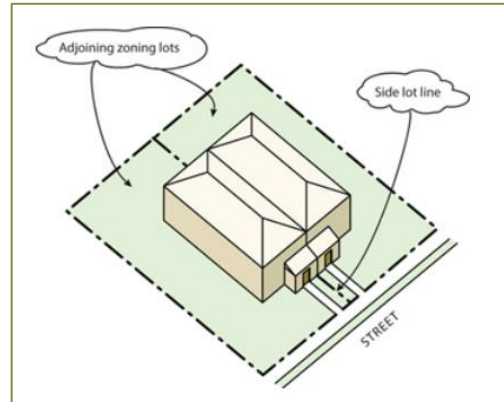
Currently, the Town Code generally prohibits detached accessory residential structures (with limited exception in R-80 districts)<sup>4</sup>. Attached accessory units are not directly addressed. This distinction presents the opportunity to add a clarifying provision that expressly allows ADUs that are *attached* to either the primary residence or to a permitted freestanding accessory structure (*e.g.*, barns, detached garages) and includes appropriate standards.

• *Residence, single family semi-detached*

A residence that abuts or shares a wall, on a side lot line, with another residence on an adjoining zoning lot and where the remaining sides of the building are surrounded by open areas or street lines. With this type of housing, is only one housing unit on each lot, on either side of the shared side lot line.

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<sup>4</sup> “Accessory,” Definitions and Word Usage, Town of Orangetown Zoning Code. § 11.2 Definitions. 2022. <https://ecode360.com/26867937>.

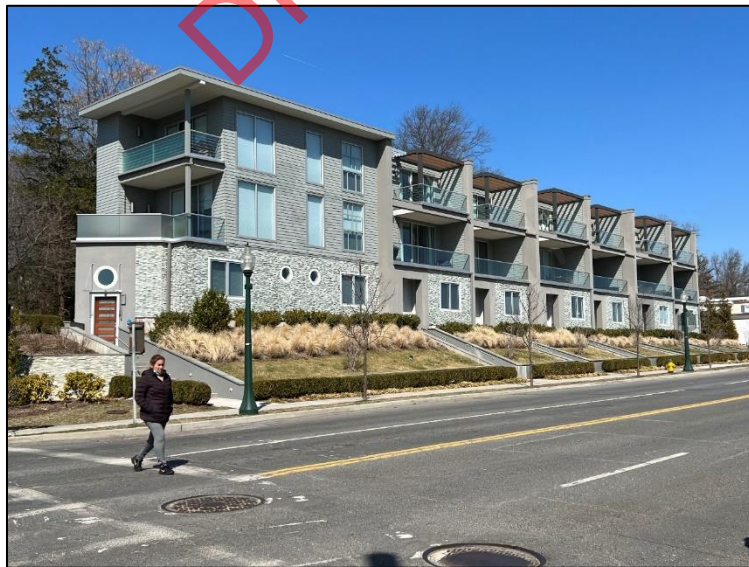


- *Triplex*  
A building on a single lot containing three dwelling units.
- *Quadplex*  
A building on a single lot containing four dwelling units
- *Commercial/Industrial*
  - *Mini-warehouse*  
Also known as self-storage facilities, a mini-warehouse is a building divided into units for long-term or temporary storage of items, and which units are not used for any other purpose (such as small offices, garages, etc.). Mini-warehouses may be: (1) “internal access only,” meaning that individual units are only accessible from internal corridors; this type of facility generally resembles an office building; or (2) “with external access,” meaning that individual units may be accessed from the exterior of the building (and may have internal access as well); this type of facility generally includes rows of garage-like units. While facilities with external access typically have a more industrial appearance, facilities that are “internal access only” blend easily into other types of development (including, office, retail, and mixed-use) and require less off-street parking for loading/unloading.
  - *Tobacco store*  
Tobacco stores, also known as “smoke shops,” are retail establishments dedicated primarily to the display, sale, offering, or marketing of tobacco or other nicotine-based consumables or related paraphernalia. Under current Town Code, tobacco stores are permitted by right in CS and CC zoning districts. There are no additional restrictions or requirements. To regulate standards and permitted locations for this use, consider requiring a special permit, and/or instituting separation requirements (for example, a minimum separation of 500 feet from any school or playground).
- Update the Route 303 Overlay District for clarity, enforcement, and to minimize variance requests.

<sup>5</sup> “Semi-detached building,” Glossary of Zoning Terms, NYC Planning, 2022. <https://www1.nyc.gov/site/planning/zoning/glossary.page>.

- In line with the *Legislative intent* outlined in the Town’s Zoning Ordinance<sup>6</sup>, target identified commercial, strip style developments for retrofitting with mixed-use and “missing middle” housing, both of which facilitate walkable, environmentally sustainable development.
  - Missing middle housing includes a range of multi-unit housing (generally, duplexes, triplexes, and quadplexes) that are compatible in scale with traditional single-family homes, serve as transitions to commercial areas, help meet the growing demand for walkable neighborhoods, and help address the housing shortage<sup>7</sup>.

*[Examples of townhomes and quadplexes below]*



<sup>6</sup> See § 13.5.

<sup>7</sup> The housing shortage is particularly acute in Rockland County, which has both the highest rate of rent-burdened tenants in the metro area (59% as of 2017) and among the lowest housing production rates in the country.

- Identified commercial interchanges:
  - Oak Tree Road/Tappan
  - Orangeburg Road/Orangeburg
  - Erie Street/Blauvelt
- Consider adding other auto-oriented uses (e.g., drive-through facilities) to the list of prohibited uses in § 13.10.B (6), particularly on sites that abut residential areas; consider requiring a pedestrian/bicyclist-only entrance from the side streets.
- Minimize variance requests. Variances provide relief to property owners who seek to use their property in a way not permitted by the regulations, either because the desired land use is not permitted, or because the physical building and/or lot do not meet the minimum or maximum bulk (dimensional) standards. If a particular land use becomes a frequent source of variance requests, it is an indication that the regulations should be updated to clarify that portion of the Zoning Code. Similarly, when stringent dimensional standards hinder favorable development because of the need for variances, this indicates that the dimensional standards should be updated.
- *Warehouses and distribution centers.* The ban on “[r]etail warehouse uses including mini-storage uses and distribution centers...in excess of 65,000 square feet” within the Overlay District has been a source of confusion and the subject of variance requests and appeals, specifically, on the issue of whether the ban applies to *all* distribution warehouses (retail and wholesale), or if the ban is limited to only *retail* warehouse and distribution centers. This ambiguity has reportedly allowed for interpretations and decisions that continue to allow wholesale warehouses and distribution centers, the proliferation of which has been a repeated and common concern expressed by the local community. To resolve this ambiguity and clearly address the community concern, the text of the Overlay District should be amended to expressly prohibit both retail and wholesale warehouses and distribution center. Making this change would prevent new warehouses and distribution centers; however, existing warehouses and distribution centers would become nonconforming uses, meaning that they could continue operations but would be generally restricted from expanding.<sup>8 9</sup>
- *Constrained redevelopment.* Within the Overlay District, certain sites may be in technical compliance with the required dimensional standards but may not meet the aspirational redevelopment goals of the Overlay District. Yet, redevelopment on these sites is constrained because of their relatively small lot sizes, which makes it infeasible or impossible to fit the new structures and desired features and still comply with the required setbacks and other dimensional standards. In these cases, property owners would have to obtain variances to proceed, which discourages and hinders redevelopment – even redevelopment that is desirable and in line with the goals of the Overlay District. Therefore, to reduce the need for variances and encourage favorable redevelopment, the dimensional standards in the Overlay District should be loosened.

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<sup>8</sup> The ban is referenced in two sections of the Code: § 13.10.B.5., *Nonresidential areas*, quoted above, and § 15.5.J, *Legislative intent*, which states that: “particular types of retail and retail warehouse uses shall be prohibited, pursuant to § 13.10.” To implement the recommended change, both sections of the Code would need to be updated to clearly ban both retail and commercial facilities.

<sup>9</sup> If the text is amended to prohibit all new warehouses and distribution centers, it may be worth considering an exception for “mini-warehouses, internal access only,” described above in *New land uses and definitions*, which generally resemble office buildings and require less parking and vehicular access than facilities with external access.

- As a complementary technique, *retrofitting* is an approach to upgrade, without necessarily redeveloping, existing developments by integrating enhanced features such as landscaping, bicycle/pedestrian pathways, seating areas, environmental protections, and general aesthetic updates.
- Update nuisance regulations to improve resident quality of life:
  - Increase minimum buffer requirements between commercial and residential uses; effective buffers are not necessarily wide, but dense, to enhance visual quality (and provide screens when necessary), reduce noise, and enhance environmental sustainability; they should be planted with mixed, native vegetative, hearty species with sufficient size and density and regularly supplemented with new plantings.
  - Review noise, light, and odor regulations.
- Update the Tree Preservation Ordinance to regulate the removal of mature trees (e.g. 8 inches diameter at breast height or greater) on private property.
- Develop a Town wetlands protection ordinance.
- Review Special Permit and Conditional Use Permit Standards and update as necessary to address current uses and concerns. In particular, update the standards for warehouse and distribution centers.
- Develop a steep slopes and ridgeline protection ordinance.
- Develop design guidelines for façades, signage, and streetscapes to preserve, protect, and enhance the unique characteristics of each hamlet.
- Where appropriate, update the zoning map and code to create transitional districts between hamlet centers and suburban neighborhoods. Transitional districts take into account the character and scale of the areas on either side of it. Generally, the scale of buildings decreases as you move (or transition) from a higher density downtown to a lower density residential neighborhood.
  - Mixed-use districts, which integrate townhome and apartment housing types with retail spaces, are a natural way to transition between residential and commercial, shopping areas. Buildings in mixed-use districts may include shops, restaurants, or offices on the ground floor and apartments on the upper floors. Typical housing types in mixed-use districts include townhomes, low-rise apartments, and live-work buildings. These housing types are sometimes referred to as the “missing middle” because they sit in the middle of the spectrum between detached single-family homes and multi-family homes, in terms of scale, as well as number of units and often, affordability<sup>10</sup>. In addition to providing more housing diversity, missing middle housing supports locally-serving retail and public transportation options. Missing middle housing fits well among single-family homes, or alongside single-family areas where it can form a transition to the downtown.

*[Example of low-rise apartments below]*

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<sup>10</sup> The term “missing” refers to the fact that this type of home construction has been largely illegal in the United States since the mid-1940s. “What is Missing Middle Housing?” 2022. <https://missingmiddlehousing.com/about>.



- Establish performance standards within the Town’s zoning code to mitigate traffic impacts.
- Update zoning code to include design guidelines and protections for rural and scenic roadways.
- Review flexible/conservation subdivision regulations.

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